

SENATE BILL 386

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SB 228/02 - FIN

2003 Regular Session
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By: ~~Senators Ruben, Middleton, Stone, and Teitelbaum~~ Teitelbaum, Kramer, Astle, Della, Exum, Gladden, Kelley, Klausmeier, Hafer, Hooper, and Pipkin

Introduced and read first time: January 31, 2003
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 23, 2003

CHAPTER _____

1 AN ACT concerning

2 **Medical Assistance Program - Employed Persons with Disabilities Program**

3 ~~FOR the purpose of requiring that the Medical Assistance Program include a certain~~
4 ~~Employed Persons with Disabilities Program; specifying certain purposes for the~~
5 ~~Employed Persons with Disabilities Program; establishing certain criteria for~~
6 ~~eligibility to participate; establishing income levels for participation in the~~
7 ~~Program; authorizing the Department to adopt certain regulations; requiring~~
8 ~~the Department to establish a premium structure; specifying that failure to pay~~
9 ~~a certain premium results in termination of eligibility, except under a certain~~
10 ~~circumstance; authorizing the Department of Health and Mental Hygiene to~~
11 ~~utilize certain collection procedures; requiring the Department of Health and~~
12 ~~Mental Hygiene to make certain reports on or before a certain date each year;~~
13 ~~requiring the Department to enroll participants by a certain date; requiring the~~
14 ~~Department of Health and Mental Hygiene to submit a certain application by a~~
15 ~~certain date and to provide a certain notice within a certain time; providing for~~
16 ~~the effective date of a certain portion of this Act, subject to a certain contingency;~~
17 ~~requiring the Department of Health and Mental Hygiene, subject to a certain~~
18 ~~contingency, to adopt certain regulations by a certain time and in consultation~~
19 ~~with certain individuals; providing for the termination of this Act under a~~
20 ~~certain circumstance; and generally relating to the inclusion of the Employed~~
21 ~~Persons with Disabilities Program under the Medical Assistance Program~~
22 ~~requiring the Department of Health and Mental Hygiene to implement the~~
23 ~~Employed Persons with Disabilities Program by a certain date, subject to~~
24 ~~certain limitations; requiring the Department to consult with a certain coalition~~
25 ~~prior to adopting regulations that develop the eligibility criteria for the~~
26 ~~Program; requiring the Department, in consultation with a certain coalition, to~~

1 review certain regulations at least every three years; requiring the Department
 2 to submit certain reports to the Governor and certain legislative committees by
 3 certain dates; and generally relating to the Employed Persons with Disabilities
 4 Program.

5 ~~BY repealing and reenacting, without amendments,~~
 6 ~~Article - Health - General~~
 7 ~~Section 15-101(a) and (i)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2000 Replacement Volume and 2002 Supplement)~~

10 BY adding to
 11 Article - Health - General
 12 Section 15-136
 13 Annotated Code of Maryland
 14 (2000 Replacement Volume and 2002 Supplement)

15 Preamble

16 WHEREAS, Many individuals with disabilities would like to work but cannot
 17 afford to enter the workforce because that would mean losing the necessary medical
 18 services they receive through Medicaid; and

19 WHEREAS, The federal Ticket to Work and Work Incentives Improvement Act
 20 allows states to establish new Medicaid eligibility categories for working people with
 21 disabilities whose income or resources would otherwise make them ineligible for
 22 Medicaid; now, therefore,

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Health - General**

26 ~~15-101.~~

27 (a) ~~In this title the following words have the meanings indicated.~~

28 (i) ~~"Program" means the Maryland Medical Assistance Program.~~

29 ~~15-136.~~

30 (A) ~~THE PROGRAM SHALL INCLUDE AN EMPLOYED PERSONS WITH~~
 31 ~~DISABILITIES PROGRAM.~~

32 (B) ~~THE PURPOSE OF THE EMPLOYED PERSONS WITH DISABILITIES PROGRAM~~
 33 ~~IS TO PROVIDE THE OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES TO BE~~
 34 ~~EMPLOYED AND TO QUALIFY FOR PROGRAM BENEFITS.~~

1 (C) AN INDIVIDUAL IS ELIGIBLE TO PARTICIPATE IN THE EMPLOYED PERSONS
2 WITH DISABILITIES PROGRAM IF THE INDIVIDUAL:

3 (1) IS BETWEEN THE AGES OF 16 AND 64 YEARS OLD, INCLUSIVE;

4 (2) (I) IS DISABLED UNDER TITLE II OR TITLE XVI OF THE SOCIAL
5 SECURITY ACT; OR

6 (II) EXCEPT FOR PROVISIONS RELATING TO SUBSTANTIAL GAINFUL
7 ACTIVITY, WOULD QUALIFY FOR SUPPLEMENTAL SECURITY INCOME OR SOCIAL
8 SECURITY DISABILITY INSURANCE;

9 (3) RECEIVES FINANCIAL COMPENSATION FOR EMPLOYMENT, WITH
10 APPLICABLE PAYROLL WITHHOLDINGS FOR PAYMENT OF FEDERAL, STATE, AND
11 LOCAL TAXES;

12 (4) MEETS THE ASSET LIMITATIONS UNDER SUBSECTION (E) OF THIS
13 SECTION;

14 (5) MEETS THE FINANCIAL LIMITATIONS REQUIRED UNDER
15 SUBSECTION (F) OF THIS SECTION; AND

16 (6) IF APPLICABLE, PAYS THE PREMIUM REQUIRED UNDER SUBSECTION
17 (G) OF THIS SECTION.

18 (D) IN DETERMINING AN INDIVIDUAL'S INCOME UNDER SUBSECTION (F) OF
19 THIS SECTION, THE DEPARTMENT MAY NOT CONSIDER THE FOLLOWING:

20 (1) INCOME DISREGARDED FOR THE PURPOSE OF DETERMINING
21 ELIGIBILITY FOR THE MEDICAL ASSISTANCE, AGED, BLIND, AND DISABLED
22 CATEGORY UNDER COMAR 10.09.24; OR

23 (2) INCOME USED TO PAY FOR IMPAIRMENT RELATED WORK EXPENSES.

24 (E) (1) AN INDIVIDUAL IS NOT ELIGIBLE FOR THE EMPLOYED PERSONS
25 WITH DISABILITIES PROGRAM IF THE INDIVIDUAL'S ASSETS EXCEED \$10,000.

26 (2) IN DETERMINING AN INDIVIDUAL'S ASSETS UNDER PARAGRAPH (1)
27 OF THIS SUBSECTION, THE DEPARTMENT MAY NOT CONSIDER THE FOLLOWING:

28 (I) ASSETS DISREGARDED FOR THE PURPOSE OF DETERMINING
29 ELIGIBILITY FOR THE MEDICAL ASSISTANCE, AGED, BLIND, AND DISABLED
30 CATEGORY UNDER COMAR 10.09.24;

31 (II) A MEDICAL SAVINGS ACCOUNT AS DEFINED UNDER 26 U.S.C.
32 220;

33 (III) A RETIREMENT ACCOUNT, INCLUDING AN INDIVIDUAL
34 RETIREMENT ACCOUNT, A 401(K) PLAN, A 403(B) PLAN, A KEOGH PLAN, AND A
35 PENSION PLAN; OR

1 (IV) ~~SUBJECT TO THE APPROVAL OF THE DEPARTMENT, ANY~~
2 ~~SPECIAL FUND FOR THE PURCHASE OF GOODS OR SERVICES THAT SUBSTANTIALLY~~
3 ~~INCREASE OR MAINTAIN THE INDIVIDUAL'S EMPLOYABILITY.~~

4 (F) (1) ~~TO PARTICIPATE IN THE PROGRAM, AN INDIVIDUAL SHALL HAVE AN~~
5 ~~ANNUAL GROSS INCOME OF NO GREATER THAN 300% OF THE FEDERAL POVERTY~~
6 ~~GUIDELINES.~~

7 (2) (1) ~~IN ADDITION TO THE REQUIREMENTS OF PARAGRAPH (1) OF~~
8 ~~THIS SUBSECTION, THE DEPARTMENT MAY ADOPT REGULATIONS THAT ESTABLISH~~
9 ~~ADDITIONAL ELIGIBILITY CRITERIA IN ORDER TO CONTROL THE COST OF THE~~
10 ~~PROGRAM.~~

11 (H) ~~THE REGULATIONS ADOPTED UNDER SUBPARAGRAPH (I) OF~~
12 ~~THIS PARAGRAPH MAY GIVE PRIORITY FOR ENROLLMENT TO INDIVIDUALS WITH:~~

13 1. ~~MONTHLY UNEARNED INCOME OF NO GREATER THAN~~
14 ~~\$850; OR~~

15 2. ~~MONTHLY EARNED INCOME OF NO GREATER THAN \$400.~~

16 (3) ~~NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, THE~~
17 ~~DEPARTMENT SHALL ACCELERATE MEASURES TO INCREASE PARTICIPATION IN THE~~
18 ~~PROGRAM TO INDIVIDUALS WITH AN ANNUAL GROSS INCOME OF NO GREATER THAN~~
19 ~~300% OF THE FEDERAL POVERTY GUIDELINES AS RESOURCES ALLOW.~~

20 (G) ~~THE DEPARTMENT SHALL ESTABLISH A PREMIUM STRUCTURE.~~

21 (1) ~~FAILURE TO PAY A PREMIUM WHEN DUE SHALL RESULT IN~~
22 ~~TERMINATION OF THE INDIVIDUAL'S ELIGIBILITY FOR PARTICIPATION IN THE~~
23 ~~PROGRAM UNDER THIS SECTION, UNLESS THE INDIVIDUAL DEMONSTRATES GOOD~~
24 ~~CAUSE FOR NONPAYMENT OR LATE PAYMENT.~~

25 (2) ~~THE DEPARTMENT MAY UTILIZE THE COLLECTION PROCEDURES~~
26 ~~THAT THE DEPARTMENT DETERMINES TO BE APPROPRIATE.~~

27 (H) ~~IF AN INDIVIDUAL HAS PRIVATE HEALTH INSURANCE, COVERAGE UNDER~~
28 ~~THE PROGRAM IS SECONDARY.~~

29 (I) ~~THE DEPARTMENT SHALL ENROLL PARTICIPANTS IN THE PROGRAM BY~~
30 ~~JULY 2005.~~

31 (J) ~~ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT SHALL~~
32 ~~REPORT TO THE LEGISLATIVE POLICY COMMITTEE REGARDING THE DEVELOPMENT,~~
33 ~~IMPLEMENTATION, AND EFFICACY OF THE EMPLOYED PERSONS WITH DISABILITIES~~
34 ~~PROGRAM.~~

35 SECTION 2. ~~AND BE IT FURTHER ENACTED, That, on or before October 1,~~
36 ~~2004, the Department of Health and Mental Hygiene shall submit to the Centers for~~
37 ~~Medicare and Medicaid Services of the United States Department of Health and~~

1 Human Services an application to amend the State's existing Medical Assistance
2 Program so as to implement the Employed Persons with Disabilities Program.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
4 Health and Mental Hygiene, within 5 days after receipt of approval or denial by the
5 Centers for Medicare and Medicaid Services of the application for the Employed
6 Persons with Disabilities Program, shall forward a copy of the approval or denial to
7 the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

8 SECTION 4. ~~AND BE IT FURTHER ENACTED, That:~~

9 (1) If the Centers for Medicare and Medicaid Services approves the
10 application for implementation of the Employed Persons with Disabilities Program:

11 (i) Section 1 of this Act shall take effect 3 months after the date on
12 which the Centers for Medicare and Medicaid Services issues its approval; and

13 (ii) Within 7 months of the date on which the Centers for Medicare
14 and Medicaid Services issues its approval, the Department of Health and Mental
15 Hygiene, in consultation with the Maryland Coalition for Work Incentive Program,
16 shall adopt regulations to implement the Employed Persons with Disabilities
17 Program; or

18 (2) If the Centers for Medicare and Medicaid Services denies the
19 application for implementation of the Employed Persons with Disabilities Program,
20 this Act, with no further action required by the General Assembly, shall be null and
21 void and of no further force and effect.

22 (A) TO THE EXTENT THAT FUNDING IS AVAILABLE IN THE STATE BUDGET,
23 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL IMPLEMENT THE
24 EMPLOYED PERSONS WITH DISABILITIES PROGRAM BY JULY 1, 2005.

25 (B) THE PURPOSE OF THE EMPLOYED PERSONS WITH DISABILITIES PROGRAM
26 IS TO ENCOURAGE INDIVIDUALS WITH DISABILITIES TO SEEK OR MAINTAIN
27 EMPLOYMENT.

28 (C) (1) THE SECRETARY SHALL ADOPT REGULATIONS THAT DEVELOP
29 SPECIFIC ELIGIBILITY CRITERIA FOR PARTICIPATION IN THE EMPLOYED PERSONS
30 WITH DISABILITIES PROGRAM.

31 (2) PRIOR TO ADOPTING THE REGULATIONS REQUIRED UNDER
32 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

33 (I) CONSULT WITH THE COALITION FOR WORK INCENTIVES
34 IMPROVEMENT; AND

35 (II) GIVE PREFERENCE TO THE RECOMMENDATIONS FOR
36 ELIGIBILITY CRITERIA DEVELOPED BY THE COALITION.

1 (D) AT LEAST EVERY 3 YEARS AFTER THE ADOPTION OF THE REGULATIONS
2 REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE DEPARTMENT SHALL
3 REVIEW THE REGULATIONS IN CONSULTATION WITH THE COALITION FOR WORK
4 INCENTIVES IMPROVEMENT.

5 SECTION 2. AND BE IT FURTHER ENACTED, That:

6 (a) On or before January 1, 2004, the Department of Health and Mental
7 Hygiene shall issue a preliminary report on the implementation of the Employed
8 Persons with Disabilities Program and the use of the federal grant funds for
9 implementation activities to the Governor, and, in accordance with § 2-1246 of the
10 State Government Article, the Senate Budget and Taxation Committee, the Senate
11 Finance Committee, the House Appropriations Committee, and the House Health and
12 Government Operations Committee; and

13 (b) On or before January 1, 2005, the Department of Health and Mental
14 Hygiene shall issue a final report defining the specific eligibility criteria and the
15 status of implementation of the Employed Persons with Disabilities Program to the
16 Governor, and, in accordance with § 2-1246 of the State Government Article, the
17 Senate Budget and Taxation Committee, the Senate Finance Committee, the House
18 Appropriations Committee, and the House Health and Government Operations
19 Committee.

20 SECTION 5- 3. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~
21 ~~Section 4 of this Act,~~ this Act shall take effect July 1, 2003.